

Regular Session, 2010

HOUSE BILL NO. 180

BY REPRESENTATIVES ROY, POPE, AND JANE SMITH

1 AN ACT

2 To amend and reenact R.S. 15:587.1(B) and R.S. 44:9(F), (G), and (I) and to enact R.S.
3 15:587(A)(1)(f), relative to criminal records; to amend provisions regarding criminal
4 background checks; to provide entities with access to criminal history information;
5 to provide for the type of information available to those entities; to provide for
6 confidentiality; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 15:587.1(B) is hereby amended and reenacted and R.S.
9 15:587(A)(1)(f) is hereby enacted to read as follows:

10 §587. Duty to provide information; processing fees; Louisiana Bureau of Criminal

11 Identification and Information

12 A.(1)

13 * * *

14 (f)(i) If the request for information and records is made to the bureau by any
15 eligible criminal justice agency, the bureau shall include in its report any information
16 concerning arrests and convictions of an individual, including convictions in which
17 a judgment of dismissal of the prosecution was granted pursuant to the provisions of
18 Articles 893 and 894 of the Code of Criminal Procedure.

19 (ii)(aa) When an individual's record contains information which has been
20 expunged, the bureau shall include in its report to the requesting entity the date of
21 the arrest and a notation that the individual's record contains information which has
22 been expunged and that the requesting entity may contact the bureau in order to
23 obtain further information regarding the expunged information.

24 (bb) The bureau shall establish policies and procedures by which the entities
25 enumerated in this Subparagraph may be furnished with expunged information.

1 These policies and procedures shall not require the requesting entity to personally
2 appear at the office of the bureau in order to obtain access to the expunged
3 information.

4 (cc) The requesting entity, upon receiving the expunged information, shall
5 maintain the confidentiality of the information as provided by law, and the expunged
6 information shall not be deemed a public record.

7 (dd) The information may be used or admitted as evidence in any court
8 proceeding or employment or disciplinary hearing in which the receiving agency is
9 an authorized participant.

10 * * *

11 §587.1. Provision of information to protect children

12 * * *

13 B.(1) Upon receiving a request pursuant to the provisions of R.S. 17:15, and
14 R.S. 46:51.2 when authorized by R.S. 15:587, that meets the requirements of
15 Subsection A of this Section, the bureau of criminal identification and information
16 shall survey its criminal history records and identification files and make a
17 simultaneous request of the Federal Bureau of Investigation for like information
18 from other jurisdictions. The bureau of criminal identification and information shall
19 provide a report promptly and in writing, but provide only such information as is
20 necessary to specify whether or not that person has been arrested for or convicted of
21 or pled nolo contendere to any crime or crimes, the crime or crimes of which he has
22 been arrested for or convicted or to which he has pled nolo contendere, and the date
23 or dates on which they occurred. The report provided pursuant to the provisions of
24 this Subsection shall include arrests, convictions, or other dispositions, including
25 convictions dismissed pursuant to Code of Criminal Procedure Articles 893 and 894.

26 (2)(a) When an individual's record contains information which has been
27 expunged, the bureau shall include in its report to the requesting person or entity the
28 date of the arrest and a notation that the individual's record contains information
29 which has been expunged and that the requestor may contact the bureau in order to
30 obtain further information regarding the expunged information.

(b) The bureau shall establish policies and procedures by which the persons and entities enumerated in this Section may be furnished with expunged information. These policies and procedures shall not require the requesting person or entity to personally appear at the office of the bureau in order to obtain access to the expunged information.

(c) The requesting person or entity, upon receiving the expunged information, shall maintain the confidentiality of the information as provided by law, and the expunged information shall not be deemed a public record.

(d) The information may be used or admitted as evidence in any court proceeding or employment or disciplinary hearing in which the receiving person or entity is an authorized participant.

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Section 2. R.S. 44:9(F), (G), and (I) are hereby amended and reenacted to read as follows:

§9. Records of violations of municipal ordinances and of state statutes classified as
a misdemeanor or felony

* * *

F. For investigative purposes only, the Department of Public Safety and Corrections may maintain a confidential, nonpublic record of the arrest and disposition. ~~The information contained in this record may be released, upon~~ Upon specific request therefor and on a confidential basis, the information contained in this record may be released to the following entities who shall maintain the confidentiality of such record: ~~to~~ any law enforcement agency, criminal justice agency, the Louisiana State Board of Medical Examiners, the Louisiana State Board of Nursing, the Louisiana State Board of Dentistry, the Louisiana State Board of Examiners of Psychologists, the Emergency Medical Services Certification Commission, Louisiana Attorney Disciplinary Board, Office of Disciplinary Counsel, ~~or~~ the Louisiana Supreme Court Committee on Bar Admissions, or any person or entity requesting a record of all criminal arrests and convictions pursuant to R.S. 15:587.1. ~~The receiving law enforcement agency, criminal justice agency,~~

~~the Louisiana State Board of Medical Examiners, the Louisiana State Board of Nursing, the Louisiana State Board of Dentistry, the Louisiana State Board of Examiners of Psychologists, the Emergency Medical Services Certification Commission, the Louisiana Attorney Disciplinary Board, Office of Disciplinary Counsel, or the Louisiana Supreme Court Committee on Bar Admissions shall maintain the confidentiality of such record.~~

G. "Expungement" means removal of a record from public access but does not mean destruction of the record. An expunged record is confidential, but remains available for use by law enforcement agencies, criminal justice agencies, the Louisiana State Board of Medical Examiners, the Louisiana State Board of Nursing, the Louisiana State Board of Dentistry, the Louisiana State Board of Examiners of Psychologists, the Emergency Medical Services Certification Commission, the Louisiana Attorney Disciplinary Board, Office of Disciplinary Counsel, ~~or the Louisiana Supreme Court Committee on Bar Admissions,~~ or any person or entity requesting a record of all criminal arrests and convictions pursuant to R.S. 15:587.1.

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I. Except to those ~~agencies~~ entities listed in Subsection G of this Section, no person whose record of arrest and conviction has been expunged pursuant to the provisions of this Section shall be required to disclose that he was arrested or convicted for the subject offense or that the record of the arrest and conviction has been expunged, unless otherwise provided in this Section.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____